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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

BLUE ACQUISITION MEMBER, LLC,

Plaintiff,

vs.

BAILEY PEAVY BAILEY, PLLC,

Defendant.

Case No. 2:14-cv-02013-GMN-NJK

STIPULATION AND ~~PROPOSED~~
ORDER EXTENDING TIME TO
RESPOND TO THE COMPLAINT AND
RELATED DEADLINES

(Third Request)

Defendant Bailey Peavy Bailey, PLLC ("Bailey Peavy"), by and through its undersigned counsel, and Plaintiff Blue Acquisition Member, LLC, by and through its undersigned counsel, hereby state as follows:

1. Plaintiff filed the Complaint in the instant action on or about December 3, 2014.
2. Plaintiff served the Complaint upon Bailey Peavy on or about December 16, 2014.
3. On or about January 8, 2015, this Court entered as an order the stipulation of the parties extending the time for Bailey Peavy to answer or otherwise respond to the Complaint up to and including January 20, 2015, so as to allow Bailey Peavy's Nevada counsel time to familiarize themselves with the issues in this case, including, but not limited to, the Motion for Transfer of Related Actions to the Northern District of Illinois Pursuant to 28 U.S.C. § 1407 for Coordinated or Consolidated Pretrial Proceedings ("Motion to Transfer"), filed on December 22,

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2014 before the Judicial Panel on Multi-District Litigation ("JPML"), Case MDL No. 2609.¹

4. Because the instant action is one of the four separate actions that are the subject of the Motion for Transfer pending before the JPML, the parties believe that outcome of the Motion to Transfer may affect the instant action, including defenses that may be asserted herein.

5. "A trial court may, with propriety, find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it, pending resolution of independent proceedings which bear upon the case." *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979). "When considering a motion to stay, the district court should consider three factors: (1) potential prejudice to the non-moving party; (2) hardship and inequity to the moving party if the action is not stayed; and (3) the judicial resources that would be saved by avoiding duplicative litigation if the cases are in fact consolidated." *Rivers v. Walt Disney Co.*, 980 F. Supp. 1358, 1360 (C.D. Cal. 1997) (cited with approval in *Glaser v. DePuy Orthopaedics, Inc.*, No. 2:12-cv-00895, 2012 WL 3542380, at *1 (D. Nev. Aug. 14, 2012); *Fein v. DePuy Orthopaedics, Inc.*, No. 2:12-cv-01175, 2012 WL 3534820, at *2 (D. Nev. Aug. 14, 2012)).

6. The parties agree that a stay will not prejudice any party. The parties further agree that they will experience hardship if the case is not stayed because they will be forced to conduct discovery and pretrial procedures that they may need to

¹ There are three/four related proceedings that are subject to the motion pending before the JPML: (1) the instant action; (2) *F. Kenneth Bailey, Jr., et al. v. Robert Entler, et al.*, Case No. 4:13-cv-03521, pending before the United States District Court for the Southern District of Texas, Houston Division (Lead Case), associated with (3) *Bighorn Capital Inc. v. Bailey Peavy Bailey, PLLC, et al.*, Case No. 4:14-cv-03070, pending before the United States District Court for the Southern District of Texas, Houston Division; and (4) *Bighorn Capital, Inc. v. PSPB Partners, LLC, et al.*, Case No. 1:14-cv-09045, pending before the United States District Court for the Northern District of Illinois, Eastern Division.

duplicate upon transfer and consolidation. Further, the parties agree that a stay will conserve judicial resources.²

In light of the foregoing, the Parties STIPULATE AND AGREE, subject to this Court's approval, as follows:

1. That the time for Bailey Peavy to answer or otherwise respond to the Complaint in this action shall be extended;
2. Bailey Peavy shall answer or otherwise respond to the Complaint in this action by or before fourteen (14) days following the decision and/or order on the motion pending before the JPML and all discovery and related obligations will be stayed until after Bailey Peavy files its response to the Complaint.

DATED this 20th day of January, 2015

HOLLEY, DRIGGS, WALCH, PUZEY
& THOMPSON

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Attorneys for Plaintiff

Attorneys for Defendant

ORDER

IT IS SO ORDERED that Bailey Peavy shall answer or otherwise respond to the Complaint in this action by or before fourteen (14) days following the decision and/or order on the motion pending before the JPML and all discovery and related obligations will be stayed until after Bailey Peavy files its response to the Complaint.


UNITED STATES MAGISTRATE JUDGE

DATED: January 21, 2015

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² See *In re Amerada Hess Corp. Antitrust Litig.*, 395 F. Supp. 1404 (J.P.M.L. 1975) (major purposes of consolidating or coordinating pretrial proceedings under 28 U.S.C. § 1407 is to “eliminate the possibilities of duplicative discovery and inconsistent pre-trial rulings, and thereby conserve the efforts of the parties and the judiciary”).